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Commission on the Limits of the Continental Shelf: information reported by the Chair of the Commission

Letter dated 2 April 2018 from the Chair of the Commission on the Limits of the Continental Shelf addressed to the President of the twenty-eighth Meeting of States Parties

Introduction

1. I wish to inform you, in my capacity as Chair of the Commission on the Limits of the Continental Shelf, about the progress of work of the Commission since the twenty-seventh Meeting of States Parties to the United Nations Convention on the Law of the Sea, held in June 2017.

2. The Commission held its forty-fourth, forty-fifth and forty-sixth sessions at United Nations Headquarters from 24 July to 8 September 2017, from 16 October to 1 December 2017 and from 29 January to 16 March 2018, respectively. Documents CLCS/100, CLCS/101 and CLCS/103 contain a more detailed account of the progress in the work of the Commission during those sessions, in particular with regard to the submissions under active consideration. The present letter focuses on, inter alia, issues of importance for the discharge by the Commission of its mandate under the United Nations Convention on the Law of the Sea, including measures taken to improve its working methods following the deliberations that took place at the twenty-seventh Meeting of States Parties.

Membership of the Commission

3. At the forty-fourth session, before assuming their duties, the 20 members of the Commission elected at the twenty-seventh Meeting of States Parties for a term of five years each made the solemn declaration pursuant to rule 10 of the rules of procedure of the Commission (CLCS/40/Rev.1).

4. The Commission elected by acclamation Yong Ahn Park as Chair. Ivan Glumov, Martin Heinesen, Jair Marques and Simon Njuguna were elected by acclamation as Vice-Chairs. In accordance with rule 13 of the rules of procedure of the Commission, the Chair and the Vice-Chairs of the Commission were elected for a term of two and a half years.

* SPLOS/L.79.

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5. In view of the election of members of the Commission and for the benefit, in particular, of the newly elected members, the secretariat gave presentations addressing topics of relevance to the functioning of the Commission and made available a welcome package, consisting of basic documents, to the members of the Commission.

Consideration of submissions

6. During its forty-fourth, forty-fifth and forty-sixth sessions, the Commission and its subcommissions considered the submissions made by: the Russian Federation, in respect of the Arctic Ocean (partial revised submission); Brazil, in respect of the Brazilian Southern Region (partial revised submission); Norway, in respect of Bouvetøya and Dronning Maud Land; France and South Africa, jointly, in respect of the area of the Crozet Archipelago and the Prince Edward Islands; Kenya; Nigeria; Seychelles, in respect of the Northern Plateau Region; France, in respect of Reunion and the Saint-Paul and Amsterdam islands; Côte d'Ivoire; Sri Lanka; Portugal; and Tonga, in respect of the eastern part of the Kermadec Ridge. The submission of Mauritius in the region of Rodrigues Island was also pending before the Commission.

7. Draft recommendations prepared by the subcommissions established for consideration of the submission made by Norway in respect of Bouvetøya and Dronning Maud Land and of the submission made by Seychelles in respect of the Northern Plateau Region were before the plenary of the Commission at the forty-fourth and forty-sixth sessions. In relation to both recommendations, the Commission decided to accommodate requests made by the respective submitting States, in view of the election of new members of the Commission, to repeat their presentations, following the modalities provided for in paragraph 1 bis of section VI of annex III to the rules of procedure of the Commission. Both requests were accommodated on the understanding that the Commission would apply, mutatis mutandis, the modus operandi established in that paragraph. At its forty-sixth session, at the request of Norway, the Commission decided to defer the presentations by the subcommission and the delegation of Norway until the forty-seventh session, after which it would resume its consideration of the recommendations. At the same session, following presentations by the subcommission and the delegation of Seychelles, the Commission continued its consideration of the recommendations in private and identified key issues that would require further discussion at the forty-seventh session.

8. The Commission also heard presentations on new, amended or revised submissions made by several States since the previous Meeting of States Parties, namely, Brazil, in respect of the Brazilian equatorial margin (partial revised submission); Palau, in respect of the North Area (partial amended submission); Canada, in respect of the Atlantic Ocean; and Oman.

9. Since the previous Meeting of States Parties, the Commission has established subcommissions for the consideration of the submission made by Portugal and the partial submission made by Tonga, bringing the total number of submissions under active consideration to 13.

Working arrangements of the Commission

10. To address concerns expressed by some submitting States, the Commission revisited its internal working methods (see SPLOS/316, para. 58, and CLCS/100, paras. 78–82). At its forty-fourth session, the Commission decided that the Chairs of the subcommissions, when reporting to the Commission, would provide a more comprehensive and substantive account of their progress in the consideration of the submissions, highlighting areas that would benefit from guidance by the Commission,

as needed. This would allow for timely feedback from other members of the Commission, which could be taken into account by the subcommissions and conveyed, as appropriate, to the delegations of submitting States. This practice, already implemented, is expected to reduce or eliminate instances in which recommendations approved by the Commission depart substantially from the drafts prepared by the subcommissions. In addition, the Commission established a working group to consider the issues raised during the twenty-seventh Meeting of States Parties and to formulate proposals, and decided to reflect the contents of the report of the working group in the present letter (see paras. 11–14 and 28–30 below).

Workload of the Commission

11. At its forty-fourth session, the Commission decided that during the current five-year term of office, it would continue to meet for a total of 21 weeks per year by holding three sessions of seven weeks each, and that no two sessions would be sequential. Four of those 21 weeks would be devoted to plenary meetings.

12. The Commission decided to make every effort to proceed as quickly as possible through the backlog of submissions in a timely manner, without compromising the high standards of consideration of all relevant data and information submitted by coastal States. In this regard, the Commission emphasized that there were factors in the course of the consideration of submissions that were beyond the Commission's control and that might lengthen the duration of consideration of the submissions (see SPLOS/310, paras. 16–18). The Commission noted that a number of circumstances had arisen where the consideration of submissions had been suspended, either due to direct instruction from delegations to suspend consideration, or as a consequence of the time required by delegations to submit new data and information. In those cases, the Commission had elected to take up new submissions in order to keep members of the Commission fully occupied and maximize the efficiency of its sessions.

13. The Commission wishes to re-emphasize the importance of having a full membership and attendance to carry out its work in the most efficient manner (see SPLOS/310, paras. 14 and 31). The absence of a Commission member results in increased workload for the remaining members, in particular with regard to subcommission work. It also increases the risk of the lack of a quorum. The Commission therefore encourages the Meeting of States Parties to consider how to fill the present vacancy in the Commission.

14. In addition, the availability of secure means of online communication among members during and between sessions would greatly facilitate the work of the Commission.

Conditions of service

15. In respect of the suggestion made at the twenty-seventh Meeting of States Parties that the Commission should have an extended length of stay in New York (see SPLOS/316, para. 55), the Commission notes that it already has, from time to time, conveyed to the Meeting of States Parties matters related to the conditions of service that need to be addressed (see SPLOS/310, paras. 20–27). While it is grateful for the efforts made by the Meeting of States Parties and its open-ended working group on the conditions of service of members of the Commission, the Commission wishes to note that there are still matters that need urgent attention. In this respect, the Commission wishes to reiterate its position that with regard to the conditions of service of the members of the Commission, no distinction should be made between members from developing and developed States.

16. At its forty-fifth and forty-sixth sessions, the Commission conducted a preliminary internal survey on the conditions of service of its members in response to

a request from the coordinators of the open-ended working group on the conditions of service of members of the Commission for additional information, including in respect of medical and dental insurance coverage for members of the Commission.

17. The survey was conducted in the form of a questionnaire. Eighteen individual responses were received by the end of 2017, with four additional inputs during the forty-sixth session. The attention of the Meeting of States Parties is drawn to the below salient conclusions regarding the survey.

18. The conclusions only reflect the experience of the current members, and, in this regard, it is noted that most of the current members have only served for a limited time. Furthermore, the survey did not attempt to predict any future needs of the members of the Commission for medical or dental assistance.

19. At the outset, it is important to note that the average age of present members of the Commission is 60 years. Attending meetings in New York during a five-year period for 21 weeks per year represents, for this particular age group, a significant risk for health-related incidents during their stay, compounded by the fact that the members are placed in a situation of important responsibility and associated stress.

20. Regarding the need for medical assistance while performing their Commission duties at United Nations Headquarters, six members stated that they had already sought such assistance while in New York. Three members indicated that they had faced dental issues. Four members indicated that the lack of or insufficient medical insurance coverage had had an adverse impact on their ability to attend the sessions. Two members experienced such an adverse impact owing to the lack of sufficient dental coverage. Six members of the Commission indicated that they had pre-existing medical conditions.

21. Regarding medical insurance, nine responding members indicated that they were currently covered. Among them, four indicated that their insurance covered their extended stay in New York. However, only three of those nine members stated that their coverage would be sufficient to address all medical expenses that might occur while performing Commission duties. Seven other members indicated that they had purchased medical travel insurance for their stay at United Nations Headquarters in New York. Four of them indicated that it included dental insurance. Of all insured members, six indicated that the insurance was provided to them by the nominating State. Four members had purchased insurance at their own expense at a cost ranging from $800 to $2,200 per year. Some others were insured through their employers.

22. Of the 16 members who had medical or medical travel insurance, nine indicated that they would need to seek reimbursement after an out-of-pocket payment. Among those who had purchased medical or medical travel insurance at their own expense, three indicated they would be able to seek reimbursement from their nominating State, while 10 stated they would not be able to seek reimbursement. So far, it appears that out-of-pocket costs for medical expenses while performing Commission duties have been incurred by one member at an approximate cost of $100,000.

23. The trust fund established to facilitate the participation of members of the Commission from developing countries in the meetings of the Commission can reimburse medical travel insurance subject to the availability of funds. Nine members indicated that they would wish to be reimbursed for medical or medical travel insurance through the trust fund. However, such reimbursements are subject to the availability of funds.

24. In terms of general comments, some responding members highlighted that full medical insurance should be provided to all members of the Commission. It was also noted that medical travel insurance was insufficient and medical insurance with a broad and complete coverage was needed. It was recalled that a member of the

Commission had had a medical incident during a meeting of the Commission, with an ultimately fatal outcome. The considerable inconvenience of medical travel insurance, namely, the initial out-of-pocket payment with subsequent claim for a refund, was highlighted, given that members may not have sufficient funds for such a payment.

25. Ten members indicated that their attendance at sessions of the Commission at United Nations Headquarters in New York had caused them to experience loss of income, benefits or career opportunities. Four of them indicated that such loss of income or benefits had had an adverse impact on their ability to effectively perform their duties in the Commission.

26. In one case, in respect of the forty-fourth and forty-sixth sessions, a nominating State provided only the air ticket (without local transportation) and the cost of accommodation. Another member noted loss of an opportunity to work on a full-time basis in the private sector, emphasizing that staying in New York without a proper salary resulted in a personal financial burden. One member mentioned not being able to collect pension benefits while attending the sessions of the Commission. Another member indicated that as a result of being on a leave of absence to attend sessions of the Commission, retirement benefits for the member could not accrue. Several other issues pertaining to the cost of living in New York were also raised.

27. Concerning facilities and office space for the performance of their duties, most responding members indicated that they felt there was a need for additional office space or other amenities to adequately perform their duties in the Commission. Five among them stated that the existing facilities and arrangements had an adverse impact on their ability to perform their Commission duties efficiently and effectively. It was also observed that information technology facilities were somewhat dated, in particular in one of the geographic information system laboratories, and that some software packages were only at the basic level of licence.

Other matters

28. The Commission and its Committee on Confidentiality dealt with matters pertaining to confidentiality, addressing issues with regard to access by some members to data and information which submitting States had classified as confidential, pursuant to annex II to the rules of procedure of the Commission. More detailed information thereon is available in my statements on the progress of work in the Commission at its past three sessions (see CLCS/100, paras. 84–85, CLCS/101, para. 43, and CLCS/103, paras. 77–84).

29. With regard to concerns raised by some States in relation to the deferral of certain submissions owing to objections as a result of existing disputes (see SPLOS/316, para. 57), the Commission wishes to note that it is frequently informed of such disputes by States other than the submitting one. Decisions by the Commission to defer consideration of submissions owing to the existence of disputes is consistent with its rules of procedure. In this regard, submitting States are encouraged to contact the States that raised objections in order to seek their withdrawal of those objections that led to the deferment of the consideration by the Commission. States should take advantage of possible avenues available, including provisional arrangements of a practical nature as provided for in the United Nations Convention on the Law of the Sea.

30. With regard to concerns raised by some States in relation to the approval of recommendations "without a vote" (ibid., para. 58), the Commission would like to reiterate that, consistent with its rules of procedure, it makes its best endeavours to ensure that its work is accomplished by general agreement. Amendments to draft recommendations prepared by the subcommissions are always the result of extensive

review and consideration with a view to achieving consensus and, consequently, to enabling the Commission to approve the recommendations without a vote. Each submission is examined on its own merits and each recommendation is based on data and information supplied by the submitting State. While the rules of procedure provide that the consideration of recommendations at the level of the Commission is conducted in private, without the participation of the submitting State, in cases of disagreement with the recommendations approved by the Commission, the submitting State is entitled to make a revised or new submission in accordance with article 8 of annex II to the Convention. The Commission would like to assure the Meeting of States Parties that it will continue to uphold the integrity of the process and be guided by the Convention, as well as by its rules of procedure and the scientific and technical guidelines.

31. I would like to reiterate, on behalf of all members of the Commission, our gratitude to the Meeting of States Parties for its continued support for our work. The Commission appreciates, in particular, the enduring commitment of the Meeting of States Parties to identifying measures to assist the Commission in addressing its considerable workload and examining submissions efficiently.

32. On behalf of the Commission, I would also like to express gratitude to the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the Secretariat for the high standard of secretariat services rendered to the Commission.

33. I would like to request that the present letter be circulated as a document of the twenty-eighth Meeting of States Parties.

(*Signed*) Yong Ahn **Park**
Chair of the Commission on the Limits of the Continental Shelf